

## **INTERFERENCE DIGEST**

Interference No. 104,751

Paper No. 20

Name: Pascal Arnaud, et al.

Serial No.: 09/049,927

Patent No.

Title: Anhydrous Cosmetic or Dermatological Composition Containing the Combination of a Silicone Oil and a Wax made from an Ethylene Homopolymer or Copolymer

Filed: 03/30/98

Interference with George J. Stepniewski

### **DECISION ON MOTIONS**

Administrative Patent Judge,

*Favorable*

Dated, 12/18/01

### **FINAL DECISION**

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### **REMARKS**

This should be placed in each application or patent involved in interference in addition to the interference letters.



# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
 BOARD OF PATENT APPEALS AND INTERFERENCES  
 BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Michael P. Tierney  
 Telephone: (703) 308-9797  
 Facsimile: (703) 305-0942

Inventor: Pascal, et al.  
 Application No.: 09/049,927  
 Filed: 03/03/98  
 For: Anthydrous Cosmetic Dermatological Composition Containing the Combination of a Silicone Oil and a Wax made from an Ethylene Homopolymer or Copolymer  
 Accorded benefit: U.S. Patent 5,750,095, issued On 05/12/98, based upon application 08/672,082, filed June 26, 1996; U.S. Patent 5,556,613, issued on 09/17/96, based upon application 08/377,382, filed 01/25/95 and FR 9400843 filed January 26, 1994.

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,751.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

MICHAEL P. TIERNEY  
 Administrative Patent Judge

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Michael P. Tierney  
Administrative Patent Judge  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed  
October 24, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

OCT 24 2001

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

GEORGE J. STEPNIEWSKI  
Junior Party  
(U.S. Patent 5,648,066)

v.

PASCAL ARNAUD AND MYRIAM MELLUL  
Senior Party,  
(U.S. Application 09/049,927).

Patent Interference No. 104,751

NOTICE DECLARING INTERFERENCE  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Michael P. Tierney has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **2:00 p.m. on December 19, 2001** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

**Junior Party**

Named inventors: George J. Stepniewski, Melville, NY

Patent: 5,648,066 issued on July 15, 1997, based upon application 08/538,550, filed October 3, 1995

Title: Solid Silicone Compositions and Methods for their Preparation and Use

Assignee: Estee Lauder, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Senior Party

Named inventors: Pascal Arnaud, Creteil, France  
Myriam Mellul, L'Hay Les Roses, France

Application: 09/049,927, filed March 30, 1998

Title: Anhydrous Cosmetic or Dermatological Composition Containing the Combination of a Silicone Oil and a Wax made from an Ethylene Homopolymer or Copolymer

Assignee: L'Oreal

Accorded Benefit:

- i) U.S. Patent 5,750,095, issued on May 12, 1998, based upon application 08/672,082, filed June 26, 1996
- ii) U.S. Patent 5,556,613, issued on September 17, 1996, based upon application 08/377,382, filed January 25, 1995
- iii) FR 9400843 filed January 26, 1994.

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

A composition according to claim 1 of U.S. Patent 5,648,066

or

A composition according to claim 20 of U.S. Patent 5,648,066

or

A method according to claim 21 of U.S. Patent 5,648,066.

The claims of the parties are:

|   |       |
|---|-------|
| Stepniewski, U.S. Patent 5,648,066:         | 1-25  |
| Arnaud et al., U.S. Application 09/049,927: | 13-37 |

The claims of the parties which correspond to Count 1 are:

|   |       |
|---|-------|
| Stepniewski, U.S. Patent 5,648,066:         | 1-25  |
| Arnaud et al., U.S. Application 09/049,927: | 13-37 |

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

|   |      |
|---|------|
| Stepniewski, U.S. Patent 5,648,066:         | None |
| Arnaud et al., U.S. Application 09/049,927: | None |

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

---

Paper <sup>1</sup>

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Michael P. Tierney)

---

GEORGE J. STEPNIEWSKI  
Junior Party  
(U.S. Patent 5,648,066)

v.

PASCAL ARNAUD AND MYRIAM MELLUL  
Senior Party,  
(U.S. Application 09/049,927).

---

Patent Interference No. 104,751

---

TITLE OF PAPER

---

<sup>1</sup> Leave a blank line because the board assigns the paper number.

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,751

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

---

---

---

---

Telephone, including area code: \_\_\_\_\_

cc (via Federal Express):

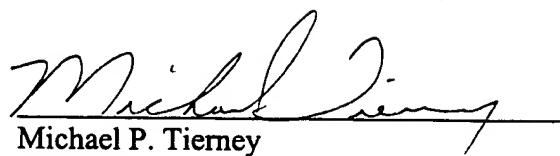
Attorney for Stepniewski:

Karen A. Lowney  
Estee Lauder Companies  
125 PineLawn Road  
Melville, NY 11747

Attorney for Arnaud:

B.J. Sadoff  
NIXON & VANDERHYE, P.C.  
1100 North Glebe Road  
8<sup>th</sup> floor  
Arlington, VA 22201

**Part J. Signature of administrative patent judge**



Michael P. Tierney  
Administrative Patent Judge

Date: October 24, 2001  
Arlington, VA

Enc:

**Copy of STANDING ORDER**

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Copy of Stepniewski, U.S. Patent 5,648,066

Copy of claims 13-37 of Arnaud et al., U.S. Application 09/049,927